

ASBESTOS REQUIREMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Larry B. Wiley

Senate Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This bill limits the Air Quality Board's authority to require asbestos testing on residential properties containing four or fewer units.

Highlighted Provisions:

This bill:

- ▶ limits the Air Quality Board's authority to require asbestos testing on residential properties containing four or fewer units; and
- ▶ provides exceptions for which the board may require asbestos testing.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-2-104, as last amended by Laws of Utah 2009, Chapter 377

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **19-2-104** is amended to read:

19-2-104. Powers of board.

(1) The board may make rules in accordance with Title 63G, Chapter 3, Utah



28 Administrative Rulemaking Act:

29 (a) regarding the control, abatement, and prevention of air pollution from all sources
30 and the establishment of the maximum quantity of air contaminants that may be emitted by any
31 air contaminant source;

32 (b) establishing air quality standards;

33 (c) requiring persons engaged in operations which result in air pollution to:

34 (i) install, maintain, and use emission monitoring devices, as the board finds necessary;

35 (ii) file periodic reports containing information relating to the rate, period of emission,
36 and composition of the air contaminant; and

37 (iii) provide access to records relating to emissions which cause or contribute to air
38 pollution;

39 (d) implementing 15 U.S.C.A. 2601 et seq. Toxic Substances Control Act, Subchapter
40 II - Asbestos Hazard Emergency Response, and reviewing and approving asbestos management
41 plans submitted by local education agencies under that act;

42 (e) establishing a requirement for a diesel emission opacity inspection and maintenance
43 program for diesel-powered motor vehicles;

44 (f) implementing an operating permit program as required by and in conformity with
45 Titles IV and V of the federal Clean Air Act Amendments of 1990;

46 (g) establishing requirements for county emissions inspection and maintenance
47 programs after obtaining agreement from the counties that would be affected by the
48 requirements;

49 (h) with the approval of the governor, implementing in air quality nonattainment areas
50 employer-based trip reduction programs applicable to businesses having more than 100
51 employees at a single location and applicable to federal, state, and local governments to the
52 extent necessary to attain and maintain ambient air quality standards consistent with the state
53 implementation plan and federal requirements under the standards set forth in Subsection (2);
54 and

55 (i) implementing lead-based paint remediation training, certification, and performance
56 requirements in accordance with 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act,
57 Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406.

58 (2) When implementing Subsection (1)(h) the board shall take into consideration:

- 59 (a) the impact of the business on overall air quality; and
- 60 (b) the need of the business to use automobiles in order to carry out its business
- 61 purposes.
- 62 (3) The board may:
- 63 (a) (i) hold a hearing that is not an adjudicative proceeding relating to any aspect of or
- 64 matter in the administration of this chapter and compel the attendance of witnesses and the
- 65 production of documents and other evidence, administer oaths and take testimony, and receive
- 66 evidence as necessary;
- 67 (ii) receive a proposed dispositive action from an administrative law judge as provided
- 68 by Section 19-1-301; and
- 69 (iii) (A) approve, approve with modifications, or disapprove a proposed dispositive
- 70 action; or
- 71 (B) return the proposed dispositive action to the administrative law judge for further
- 72 action as directed;
- 73 (b) issue orders necessary to enforce the provisions of this chapter, enforce the orders
- 74 by appropriate administrative and judicial proceedings, and institute judicial proceedings to
- 75 secure compliance with this chapter;
- 76 (c) settle or compromise any civil action initiated to compel compliance with this
- 77 chapter and the rules made under this chapter;
- 78 (d) secure necessary scientific, technical, administrative, and operational services,
- 79 including laboratory facilities, by contract or otherwise;
- 80 (e) prepare and develop a comprehensive plan or plans for the prevention, abatement,
- 81 and control of air pollution in this state;
- 82 (f) encourage voluntary cooperation by persons and affected groups to achieve the
- 83 purposes of this chapter;
- 84 (g) encourage local units of government to handle air pollution within their respective
- 85 jurisdictions on a cooperative basis and provide technical and consultative assistance to them;
- 86 (h) encourage and conduct studies, investigations, and research relating to air
- 87 contamination and air pollution and their causes, effects, prevention, abatement, and control;
- 88 (i) determine by means of field studies and sampling the degree of air contamination
- 89 and air pollution in all parts of the state;

90 (j) monitor the effects of the emission of air contaminants from motor vehicles on the
91 quality of the outdoor atmosphere in all parts of this state and take appropriate action with
92 respect to them;

93 (k) collect and disseminate information and conduct educational and training programs
94 relating to air contamination and air pollution;

95 (l) advise, consult, contract, and cooperate with other agencies of the state, local
96 governments, industries, other states, interstate or interlocal agencies, the federal government,
97 and with interested persons or groups;

98 (m) consult, upon request, with any person proposing to construct, install, or otherwise
99 acquire an air contaminant source in the state concerning the efficacy of any proposed control
100 device, or system for this source, or the air pollution problem which may be related to the
101 source, device, or system, but a consultation does not relieve any person from compliance with
102 this chapter, the rules adopted under it, or any other provision of law;

103 (n) accept, receive, and administer grants or other funds or gifts from public and
104 private agencies, including the federal government, for the purpose of carrying out any of the
105 functions of this chapter;

106 (o) require the owner and operator of each new source which directly emits or has the
107 potential to emit 100 tons per year or more of any air contaminant or the owner or operator of
108 each existing source which by modification will increase emissions or have the potential of
109 increasing emissions by 100 tons per year or more of any air contaminant, to pay a fee
110 sufficient to cover the reasonable costs of:

111 (i) reviewing and acting upon the notice required under Section 19-2-108; and

112 (ii) implementing and enforcing requirements placed on the sources by any approval
113 order issued pursuant to notice, not including any court costs associated with any enforcement
114 action;

115 (p) assess and collect noncompliance penalties as required in Section 120 of the federal
116 Clean Air Act, 42 U.S.C. Sec. 7420;

117 (q) meet the requirements of federal air pollution laws;

118 (r) establish work practice, certification, and clearance air sampling requirements for
119 persons who:

120 (i) contract for hire to conduct demolition, renovation, salvage, encapsulation work

- 121 involving friable asbestos-containing materials, or asbestos inspections;
- 122 (ii) conduct work described in Subsection (3)(r)(i) in areas to which the general public
123 has unrestrained access or in school buildings that are subject to the federal Asbestos Hazard
124 Emergency Response Act of 1986;
- 125 (iii) conduct asbestos inspections in facilities subject to 15 U.S.C.A. 2601 et seq.,
126 Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or
- 127 (iv) conduct lead paint inspections in facilities subject to 15 U.S.C.A. 2601 et seq.,
128 Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;
- 129 (s) establish certification requirements for persons required under 15 U.S.C.A. 2601 et
130 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to
131 be accredited as inspectors, management planners, abatement project designers, asbestos
132 abatement contractors and supervisors, or asbestos abatement workers;
- 133 (t) establish certification requirements for asbestos project monitors, which shall
134 provide for experience-based certification of persons who, prior to establishment of the
135 certification requirements, had received relevant asbestos training, as defined by rule, and had
136 acquired at least 1,000 hours of experience as project monitors;
- 137 (u) establish certification procedures and requirements for certification of the
138 conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the
139 tax credit granted in Section 59-7-605 or 59-10-1009;
- 140 (v) establish a program to certify private sector air quality permitting professionals
141 (AQPP), as described in Section 19-2-109.5;
- 142 (w) establish certification requirements for persons required under 15 U.S.C.A. 2601 et
143 seq., Toxic Control Act, Subchapter IV -- Lead Exposure Reduction, to be accredited as
144 inspectors, risk assessors, supervisors, project designers, or abatement workers; and
- 145 (x) assist the State Board of Education in adopting school bus idling reduction
146 standards and implementing an idling reduction program in accordance with Section
147 41-6a-1308.
- 148 (4) Any rules adopted under this chapter shall be consistent with provisions of federal
149 laws, if any, relating to control of motor vehicles or motor vehicle emissions.
- 150 (5) Nothing in this chapter authorizes the board to require installation of or payment for
151 any monitoring equipment by the owner or operator of a source if the owner or operator has

152 installed or is operating monitoring equipment that is equivalent to equipment which the board
153 would require under this section.

154 (6) Rules made in accordance with this section may not require testing for asbestos and
155 related materials on a residential property with four or fewer units, unless:

156 (a) the testing is related to the proposed demolition of a residential property; or

157 (b) the testing is of:

158 (i) a sprayed acoustical ceiling;

159 (ii) asbestos-taped ducts and furnaces;

160 (iii) transite siding and roofing material; or

161 (iv) vinyl asbestos floor tile.

Legislative Review Note
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Office of Legislative Research and General Counsel